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in the insurance carrier's 'Schedule' that the policy apparently covers 'Any person in the Insured's immediate x x x' which necessarily includes the late Mallari. Any other interpretation will tend to defeat the very purpose for which compulsory insurance system was introduced into the country."

We need only add, in refutation of the petitioner-appellant's contention that the deceased Mallari exceeded the number of employees (seven in all) covered by the insurance policy, that since the policy itself nowhere specifies the names of the persons covered, it is obvious that Simeon Mallari cannot by any reason or rule of logic be considered as excluded from the coverage thereof.

ACCORDINGLY, the judgment appealed from is affirmed at petitioner's cost.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo and *Villamor, JJ.*, concur.

[G.R. Nos. L-28571 & 28644. July 31, 1970]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* LIMPAN INVESTMENT CORPORATION and THE COURT OF TAX APPEALS, *respondents.* COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* LIMPAN INVESTMENT CORPORATION and THE COURT OF TAX APPEALS, *respondents.*

SYLLABUS

1. **TAXATION; COURT OF TAX APPEALS, UNAUTHORIZED TO FIX ACCRUAL DATE TO PAY SURCHARGES AND INTERESTS.**— The judgment of the Court of Tax Appeals which has the effect of fixing a new date for the payment of surcharges and interests is reversible error. Both the interest and surcharge are invariably considered as "part of the tax," so that the rule governing payment of taxes on the dates fixed by law

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would apply, and would leave no room for discretion on the part of revenue officials, or the Court of Tax Appeals for that matter.

2. **ID.; STATUTORY CONSTRUCTION OF TAX STATUTE; RULE.**— The cardinal rule of statutory construction is that where the terms of the statute are clear and unambiguous, no interpretation is called for, and the law is applied as written, for application is the first duty of courts, and interpretation, only where literal application is impossible or inadequate.

APPEARANCES OF COUNSEL

Solicitor General Antonio P. Barredo, Assistant Solicitor General Felicisimo R. Rosete, Solicitor Lolita G. Gal-lang and *Special Attorney Virgilio Saldajeno* for petitioner.

Vicente L. San Luis for private respondent.

DECISION

RUIZ CASTRO, *J.*:

These are sister cases, elevated to us from the Court of Tax Appeals on petition for review by the Commissioner of Internal Revenue.

The Limpan Investment Corporation filed income tax returns for the years 1959 and 1960, which became the bases of two deficiency tax assessments flowing from deductions disallowed after investigation and verification by the Bureau of Internal Revenue.

The assessments were disputed, and thereafter appeal was seasonably lodged with the Court of Tax Appeals.

Decision was rendered in CTA case 1358 [L-28571] on September 20, 1967, reducing the deficiency assessment to P26,137. Decision was rendered in CTA case 1397 [L-28644] on December 11, 1967, reducing the deficiency assessment to P7,240.48.

The uniform dispositive part of the decisions in both cases reads as follows:

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". . . If the deficiency income tax is not paid in full within thirty (30) days from the date this decision becomes final and executory, petitioner shall pay a surcharge of five per cent (5%) of the unpaid amount plus interest at the rate of one per cent (1%) a month, *computed from the date this decision becomes final until paid,* provided that the maximum amount that may be collected as interest shall not exceed the amount corresponding to a period of three (3) years. . ." (italics ours)

The present petitions for review are limited to the sole issue of *when* payment by the Limpan Investment Corporation of the 5% surcharge and the 1% monthly interest for delinquency did legally accrue.

Resolving the issue thus posed, we hold that that portion of the judgment of the CTA which has the effect of fixing a new date for the payment of surcharges and interests is reversible error.

Section 51, paragraph (e) of the National Internal Revenue Code, as amended by Republic Act No. 2343, provides:

"(e) Additions to the tax in case of non-payment.—

"(1) Tax shown on the return. - Where the amount determined by the taxpayer as the tax imposed by this Title or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected as part of the tax, interest upon such unpaid amount at the rate of one per centum a month from the date prescribed for its payment until it is paid: *Provided,* That the maximum amount that may be collected as interest on deficiency shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding.

"(2) Deficiency.— Where a deficiency, or any interest assessed in connection therewith under paragraph (d) of this section, or any addition to the taxes provided for in section seventy-two of this Code is not paid in full within thirty days from the date of notice and demand from the Commissioner of Internal Revenue, there shall be collected upon the unpaid amount, as part of the tax, interest at the rate of one per centum a month from the date of such notice and demand until it is paid: *Provided,* That the maximum amount that may be collected as interest on deficiency shall in no case exceed the amount corresponding

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to a period of three years, the present provisions regarding prescription to the contrary notwithstanding.

"(3) Surcharge.— If any amount of the tax included in the notice and demand from the Commissioner of Internal Revenue is not paid in full within thirty days after such notice and demand, there shall be collected in addition to the interest prescribed herein and in paragraph (d) above and as part of the tax a surcharge of five per centum of the amount of tax unpaid."

It is a cardinal rule of statutory construction that where the terms of the statute are clear and unambiguous, no interpretation is called for, and the law is applied as written,[1] for application is the first duty of courts, and interpretation, only where literal application is impossible or inadequate.[2]

The above legal provision makes no distinctions nor does it establish exceptions. It directs the collection of the surcharge and interest at the stated rates upon any sum or sums due and unpaid after the dates prescribed in subsections (b), (c), and (d) of Section 51 of the Act for the payment of the amounts due. The provision therefore is mandatory in case of delinquency. The intention of the law is precisely to discourage delay in the payment of taxes due to the State and, in this sense, the surcharge and interest charged are not penal but compensatory in nature. They are compensation to the State for the delay in payment, or for the concomitant use of the funds by the taxpayer beyond the dates he should have paid them to the State.[3]

It is obvious that the interest and surcharge are invariably considered as "part of the tax," so that the rule governing payment of taxes on the dates fixed by law would apply, and would leave no room for discretion on the part of revenue officials, or the Court of Tax Appeals for that matter.[4]

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[1] Luzon Stevedoring Corp. *v.* CTA, L-21005, Oct. 22, 1966; POACO *v.* CBP, L-21881, Mar. 1, 1968.

[2] De Quito *v.* Lopez, L-27757, Mar. 28, 1968.

[3] Castro, *v.* Collector etc., Resolution on Motion for Reconsideration, L-12174, Dec. 28, 1962.

[4] Cf Commissioner of Internal Revenue *v.* Abad, L-19627, June 27, 1968.

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In L-28571, interest shall be computed from September 7, 1962, the date of notice and demand, at 1% per month, for 3 years, no payment having been made within thirty days from such notice and demand. The surcharge of 5% accrued on failure to pay the deficiency tax due within thirty days from notice and demand. In L-28644, interest shall be computed from April 4, 1963, the date of notice and demand, at 1% per month, for 3 years, no payment having been made within thirty days from such notice and demand. The surcharge of 5% accrued on failure to pay the deficiency tax due within thirty days from notice and demand.

ACCORDINGLY, the judgments *a quo* are modified in the sense that the respondent Limpan Investment Corporation is hereby ordered (1) In L-28571, to pay to the Commissioner of Internal Revenue 5% surcharge on the 1959 deficiency income tax of P26,137, plus 1% monthly interest on the said deficiency tax from September 7, 1962 to September 6, 1965; and (2) in L-28644, 5% surcharge on the 1960 deficiency income tax of P7,240.48, plus 1% monthly interest on the said deficiency tax from April 4, 1963 to April 3, 1966. As thus modified, the judgments *a quo* are affirmed. Costs in both instances against the respondent Limpan Investment Corporation.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee and *Villamor, JJ.*, concur.

Barredo, J., did not take part.

[G.R. No. L-31338. July 31, 1970]

ATLAS TEXTILE DEVELOPMENT CORPORATION and GREGORIO LIM, Vice - President and General Manager, *petitioners-appellants, vs.* KAPISANAN NG MGA MANGGAGAWA SA ATLAS-PTGWO, *respondent-appellee.*